

ANDOVER CONSERVATION COMMISSION MEETING MINUTES

OCTOBER 16, 2012

Town of Andover
36 Bartlet Street
3rd Floor Conference Room
7:45pm

COMMITTEE MEMBERS IN ATTENDANCE

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Fran Fink, Commissioner Alix Driscoll, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

103 Chestnut Street

Present in Interest: Anthony Sakakeeny and Elliott Brundage

Staff Recommendation: Close the Public Hearing and Issue Determination.

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed landscape work to include, installation of new plantings, installation of dry set stone paver walkway and small sitting area; selective pruning and removal of tree limbs; selective pruning of sicker or hazardous trees; and removal and possible replacement of existing chain link fence 3 feet high at the south property line area is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. Mr. Douglas presented photos of the existing site for the Commission to review. A large open yard where the grass has reestablished and the Applicant now wants to reestablish the plants and trees. It is a big landscaping job, and lot of thought and time has been spent deciding which plants to use that are wildlife friendly. The trees will be planted on grade. Behind the fence and berm is a small jurisdictional stream, Rogers Brook. The entirety of the project is within the Riverfront Resource Area. Separating the property from Rogers Brook is a berm that runs the length of the yard, which is also shown in the photographs provided. Vice Chairman Walsh asked if there will any impact to the River. The berm will protect the River.

Elliott Brundage presented the Plan and project to the Commission. The plan provided shows a hemlock outside the fence and the Commission asked it to be moved inside the fence. All of the plantings will be inside the fence if the fence remains in place.

Commissioner Fink inquired if the berm was well vegetated. The berm is in a shaded area with different plants and it is stable. She also asked the Applicant to be more specific as to which trees will be removed and/or pruned. A 14 inch Norway Spruce will be removed and a hazardous overhang from maple trees located on the neighbors property would be pruned to open up the canopy to provide more light for plantings. Any trees on the berm to be cut would destabilize the berm. Anthony Sakakeeny stated that there are a few trees in rough shape located on or around the berm and a few have fallen over. Anthony agreed to cut only the dead portions and leave stumps to keep the berm stabilized if necessary. She asked that the Order clarify which trees are to be cut. Line on plan labeled "Approximate Line of 100 year Flood Plain" and most of the work appears to be in that flood plain, which would require compensatory flood storage of each square foot filled. The grade will not be changed and there is existing loam and seed there now. There will be no change in grade as the plantings will be done at grade with two to three inches of mulch used. No materials will be brought in and none will be removed during the planting, other than the mulch. Commissioner Fink asked if the Applicant would consider using ground cover rather than mulch. The plan does not depict the existing grades. The Applicant agreed to not change the grade during this project. See Special Condition #10.

Chairman Cooper asked for a Motion. Commissioner Fink made a Motion to Approve as Neg.2 and Neg.3 with conditions as drafted, work shall not result in fill in Flood Plain and one to two trees removed from south end of lot with stumps to remain and no change in grade. The Motion was seconded by Commissioner Driscoll and unanimously approved.

14 Coventry Lane

Staff Recommendation: Continue to Date Uncertain.

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of an addition, deck and sunroom are subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The Applicant has requested to continue to a date uncertain to revise the site plans to more accurately depict current site conditions and boundaries, resource areas, property lines, easements, non-disturb areas, etc.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to Continue to a Date Uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

Behind 19 County Road

Present in Interest: Bill MacLeod, Gerry Welch, Tom Amarault and Evamarie Flower

Staff Recommendation: Close Public Hearing and Issue Order of Conditions.

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-law for the proposed construction of an 18 foot wide driveway and utilities within an existing private way.

Agent Cleary presented this to the Commission. This was continued from October 2, 2012 for purposes of review of resource areas by staff and site visit to be determined. The resource area has been reviewed by staff and the Application is complete. The Applicant has provided credible evidence that the tributary is not perennial and has no associated Riverfront Area. This information is supported by Heidi Davis of DEP. The revised plan submitted provides a larger buffer, and reflects the flagged changes in the field by staff. The private way was created prior to the Subdivision Control Law. As such, the proposed work is grandfathered or exempted from the requirements for the Riverfront Area. Ruling on Flags RF-1 through RF-22 inclusive, and no ruling is made on RF-23 through RF-27 inclusive. Ruling on BVW Flags 1A-43A, inclusive as depicted on the approved plan dated October 9, 2012. The proposed work is exempt from the MA DEP Stormwater Standards. The only work approved consists of an eighteen foot wide paved driveway within an existing private way, the construction of a turn-around tee, an eight inch gravity sewer, water services and street drains with an infiltration area. The activities on the subdivided lots are subject to 310 CMR 10.58 unless they receive a building permit under 310 CMR 10.58 (6)(f).

Mr. MacLeod requested a change to Finding #8. It was agreed to change to read as follows:

“The Andover Conservation Commission finds that activities on the subdivided lots that would occur in the buffer zone or Riverfront Area are subject to 310CMR 10.58.”

Evamarie Flower, an abutter, asked for confirmation that the buffer zone and edge of wetland was pushed further away. 7 years ago she came before the Commission for an addition and at that time the stream was perennial, but now it is intermittent. Stream Stats are now used to determine if a stream is perennial or intermittent.

Commissioner Fink upon reviewing the plan found a typographical error. The plan view shows the invert at 98.50 and within the system at 99.92 and 98.25, whereas the side view within the system is at 97.92. This would mean the pipe goes uphill. Mr. MacLeod stated that the invert noted on the drywell section is correct. Commissioner Fink asked to make a finding that the invert within the system should be 97.92, not 99.92 as indicated on the plan view.

Commissioner Fink asked for a long term maintenance and operation plan for this system including easements, homeowner's association to maintain the system. Staff will add a standard BMP condition. When a Homeowners Association is established, the responsibility for long term maintenance shall be identified to the Conservation Commission.

Commissioner Fink mentioned that Lot 15 would be losing their driveway and a place to park their cars. She would like to see on the plan the proposed parking for this lot which is in the Riverfront area. Lot 15 has rights in the road. They are currently parking on the street and will continue to park on the street. Commissioner Fink disagreed due to the size limitation of the shared driveway and still provide fire truck access, which is a Planning Board issue.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to close the public hearing, and for the Order of Conditions to be issued modifying Finding #8 and adding the BMP requirement with maintenance as discussed it was seconded by Commissioner Driscoll and unanimously approved.

Intersection of Salem & Jenkins Road

Present in Interest: Brian Moore

Staff Recommendation: Close Public Hearing and Issue Order of Conditions.

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed extension of drainage piping and catch basins to capture runoff from adjacent properties to mitigate unsafe icing conditions in the travelled way during winter conditions.

Agent Cleary presented this to the Commission. This was continued from October 2, 2012 for revised plan to be submitted. DEP has no comments. Comments provided by Keith Saxon have been distributed to the Commission. Currently, runoff is going directly into the wetland and the addition of the drainage system with the deep sumps will improve the roadway. Staff spoke with Pam Merrill of DEP regarding the hoods on deep sumps. Due to site constraints, DEP will accept MA Highway OMP if Andover will follow the same OMP. The OMP has been requested by DEP to be referenced in the Order of Conditions, which has been done.

Brian Moore addressed the concern regarding the hooded sumps. DEP does require the hoods be installed, however there is an exception for MA Highway Department due to lack of proper equipment for cleaning and money to purchase the equipment. The Town is asking for the same exception and will follow MA Highway OMP for cleaning practices. This is a hardship for the Highway Department to clean and maintain the hooded deep sumps without the proper, specialized equipment necessary. The catch basins are off line and have four foot deep sumps as required.

Chairman Cooper asked how much oil was involved since the cars are driving on the roadway, not a parking lot where the cars sit all day. Mr. Moore agreed that any oil leaking would be minimal.

Commissioner Fink stated that there are hundreds of cars daily driving this roadway and the first flush from a rainstorm will flush the oil into the wetland. Urban runoff is polluting the wetlands, which is the runoff from the roadways. DEP standards call for the hoods on the catch basins to

catch this urban runoff. Catch basins cleaned only once every two years, however DEP standards call for cleaning four times a year without the use of the hood.

Brian Moore acknowledged that the next phase of the EPA Stormwater Management will require a more detailed requirements than in phase one. He agreed that the storm drain markers mentioned by Mr. Saxon will be done for this project. In fact, the Town has placed those markers on almost 100% of the catch basins and is continuing to work to complete this task.

Commissioner Driscoll suggested the "lend lease" agreement in place by other towns to borrow the equipment to clean the catch basins if the hoods are used. The maintenance is handled by the Highway Department, therefore Mr. Moore does not have knowledge of any such agreement.

Commissioner Greenwood acknowledged the outlet for this system drains directly into the wetland, so there may be no positive benefit to use the hoods. We should move forward with this project and then address the issue of the use of hoods with the Town moving forward.

Paul Finger added that the water quality and oils is dealt with in the "first flush" and then everything else by passes it. As soon as the water comes in, the oil emulsifies and just flushes out. The hoods do not provide significant water quality. The wetlands themselves act as water quality control by removing the oils, etc and the water passes through.

Andy Menezes agreed that the hoods are a requirement as is the marking of the catch basins.

The Town does this as a public education as part of the Stormwater Management. When a new road is accepted by the Town, there should be a procedure where those roads become marked as well.

The question before the Commission is whether to demand hoods on the catch basins for this project. The Town does not have the proper equipment to maintain the catch basins with the hoods. Commissioner Greenwood would recommend a subcommittee be formed to discuss the hood issue with the Town. Mr. Douglas will meet with the head of DPW to see what the procedure would be to move toward using the hooded catch basins and obtaining the proper equipment.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Close the Public Hearing and Issue the Order of Conditions with a subcommittee to work on hood issue with the Town, it was seconded by Commissioner Driscoll and unanimously approved.

Chairman Cooper will write a short memo that the Conservation Commission is aware of the situation that DEP requires the hoods on the catch basins and the Town is not complying.

Commissioner Fink would like the Town to comply as soon as possible with DEP. "Stormwater Fund" funded through an extra tax on the property taxes for the Town to pay for the cleaning and equipment needed was discussed.

Commissioner Greenwood made a Motion to have Mr. Douglas speak with the head of the DPW and report back to the Commission, it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

7 Manning Way

Staff Recommendation: Approve.

Request for Temporary Cessation of Monthly Inspections. The site is stable per site monitor, Scott Kelloway.

Commissioner Greenwood made a Motion to Approve, it was seconded by Vice Chairman Walsh and unanimously approved.

19 Pomeroy Road

Present in Interest: Steve Cotton

Staff Recommendation: Approve as Insignificant.

Consideration of significance to substitute stone and mortar for pressure treated timbers for retaining walls and pathway steps. Mr. Cotton stated that the change in materials will be a more permanent solution and will also benefit the pond. Commissioner Fink asked that no natural plantings be disturbed during the work.

Commissioner Driscoll made a Motion to find the change Insignificant, it was seconded by Vice Chairman Walsh and unanimously approved.

CONSENT AGENDA:

30 Fosters Pond Road

Issuance of a Certificate of Compliance.

26 Sunset Rock Road

Issuance of a Satisfactory Completion of Work Certificate.

Minutes

Approval of Minutes for meetings of August 7, 2012 and September 25, 2012. Approval of Executive Session Minutes for August 7, 2012.

Vice Chairman Walsh made a Motion to Approve the Consent Agenda, it was seconded by Commissioner Driscoll and unanimously approved.

LATE ITEMS THAT MAY REQUIRE A VOTE:

Riverina Road

Ratification of Emergency Certification for a collapsed sewer pipe to be replaced by DPW.

Commissioner Driscoll made a Motion to Ratify the Emergency Certification, it was seconded by Commissioner Greenwood and unanimously approved.

Balmoral Spa/Tactician Building

Present in Interest: Paul Finger

The Project is located at the former Merrimack Mutual Building along the Shawsheen River. This is a previously developed site with an existing parking lot. Owner looking to redevelop the site to include access to the Shawsheen as a recreational resource. Would like to build garage under the existing parking lot. The property comes right up to the wall along the river. The flood plain covers almost all the site and it is within the Riverfront. The existing parking lot is very close to the river. The project would consist of moving the parking lot back away from the river and adding a riverwalk with public access and aesthetics. There is an existing dock which will be relocated within the project. Would also like to include a canoe launch and at some point in the future a bridge to access the town's fields on the other side. The improvements would be used as mitigation for the work to be done within the Riverfront. The owner would like to use part of the property as a function hall.

Commissioner Greenwood asked if the public could access the parking lot. The owner is agreeable to the public accessing the river through this parking area and hopes to use this area for public recreation. Public access from this point would be very desirable.

Commissioner Driscoll supports the project and this would become part of the Shawsheen Riverway.

Commissioner Fink stated that flood plain standards need to be met, soils testing for the garage, stormwater management and questioning the condition of the wall along the river. A portion of the wall has collapsed and will be rebuilt as part of this project.

2 Rutgers Road

Ratification of Enforcement Order for work done within the buffer zone.

Commissioner Honea made a Motion to Ratify the Enforcement Order; it was seconded by Commissioner Driscoll and unanimously approved.

INFORMATIONAL ITEMS:

MBTA Shawsheen River

Bridge Project

Present in Interest: Holly Palmgren, Tim Polson and Rick Connors

Rehabilitation of two bridges in the Shawsheen River. Work has begun on the bridge project. The bridge work should be completed by 2013 and the river work will be completed in 2014. Staff requested a copy of the work schedule. This project contains extensive work within the Riverbed. Under the Acts of 2008, the MBTA is exempt under state permitting for bridge work, so they are exempt under the Wetlands Protection Act. They are not exempt under Federal permitting. They have obtained a Federal 404 Permit and 401 Water Quality Cert and will forward copies to staff. There will be some mitigation work in the stream in addition to the bridge work. There is some slope failure between Central Street and St. Augustine's Cemetery so they will repair the slope and do bank stabilization work as well as mitigation that DEP requested.

Commissioner Greenwood asked if the double track would still be installed. The work is continuing on the double track once the bridge is completed as the existing bridge could not handle the double track in its condition.

194 Chandler Road

Parking Area

Present in Interest: Barry McQuade and Cheryl Maguire

Mr. Douglas updated the Commission on the progress of the parking area. Natural Heritage has cleared the project and the approved configuration of the parking area is outside the Habitat Zone. The entrance has been shifted to the west to obtain slightly lower grades. This shift also puts the parking area closer to the location specified in the Boloian Forestry plan. Also, the neighbor directly across the street from the parking area is in agreement with the shifting of the parking area, as the headlights of cars entering and exiting the parking area will no longer shine directly into his home.

The abutters have proposed to build at no cost to the Commission the "Skug" style parking area, as are asking the Commission to re-open the hearing. Chairman Cooper informed the Commission and abutters that the hearing cannot be reopened, but the Conservation could file for another RDA. The Land Group would make the recommendation regarding the new filing. Commissioner Greenwood spoke on behalf of the Land Group, stating that this application has an extensive public hearing process and the Land Group is not interested in filing an for a new RDA and reopening the public hearing process.

Commissioner Fink advised the Commission that the continued ZBA hearing for Rolling Green is scheduled for November 1, 2012. The ZBA only supports moving the ILSF north. She asked the Commission to provide a letter to the Army Corps supporting only one option.

The next meeting will be held November 6, 2012 at 8:00pm

The Meeting was adjourned at 9:40pm by Motion of Commissioner Driscoll, seconded by Vice Chairman Walsh and unanimously approved.

Respectfully submitted by,

Lynn Viselli,
Recording Secretary